



C O L E N S O  
VOL. 2 No. 4: APRIL 2011 SUPPLEMENT



Excerpt from Chapter 9 of

## *Sainsbury Logan & Williams: A Firm History*

by Stuart Webster\*

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### **The Estate of William Colenso**

William Colenso was a client of James Wren Carlile, one of the earliest lawyers to practise in Hawke's Bay. His last Will was executed on 18 September 1895 and was witnessed by JW Carlile and one John Hope who was described in the jurat as a "Law Accountant" and was most likely in the employ of JW Carlile at the time. William Colenso executed a Codicil fourteen months later on 13 November 1896. That separate testamentary instrument was witnessed by George Thomas Fannin, Secretary, Education Board and Wilson Craig "Bookseller of Napier" [1].

William Colenso died on Friday 10 February 1899, was buried after Church on Sunday 12<sup>th</sup> February (at 3pm)



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*1. The full text of his Probated Will is reproduced in the Appendix (p.28). An "Order of Probate" (or simply "Probate") is granted to the Executors and Trustees of an Estate as public notice of their authority to act and of the official contents of the last will of the deceased. Note that a Probated Will is a "facsimile" copy of the original Will (which then, as now, is exhibited to the sealed Probate and held by the Court). The Probate application is filed in duplicate. The facsimile copy is filed with the Registrar at the same time as the original and then stamped with the Court Seal and issued out to the Executors as a "true copy" of the original. In 1899, the only way to duplicate a will for Probate purposes was to handwrite the entire document, in this case using a combination of Old English intitulement and copperplate writing. It was a requirement under the rules governing proper execution of wills that the foot of each page was to be signed sequentially. That is why, throughout the text of the Probated Will, the reader will come across words in brackets "(W. Colenso)". This merely signifies a page-end in the original Will or Codicil, much the same as page numbers are sometimes included in quoted passages of text, and should be ignored as part of the actual text of the Will, otherwise it will make no sense. This explains also why at page 5 of the Probated Will the attestation clause of the Will refers to "the eleven preceding sheets of paper" when there appear to be only five and again in the attestation clause of the Codicil at page 8 it refers to "...this Codicil...contained in five sheets of paper and numbering nine written pages.." where the front page of the Probated Will is the Order of Probate itself and not part of the original Will or Codicil.*

\* Stuart Webster has been a partner of Sainsbury Logan & Williams, Solicitors, Tennyson Street, Napier for 20 years and is one of the owners of the premises on the corner of Tennyson Street and Cathedral Lane which have been occupied by the firm since 1886. He has completed a manuscript on the history of the firm which is intended for publication in November this year, both in hard-back and available free on the firms website ([www.slw.co.nz](http://www.slw.co.nz)) in searchable pdf.

**NB: chapter numbers here refer to those in *Sainsbury Logan & Williams: A Firm History*.**

and his Probate was granted on Wednesday the 15<sup>th</sup> February. It must have been a pressurised job for the confidential clerk who was required to produce a handwritten facsimile of the Will and Codicil consisting of 12 pages of copperplate writing, Old English intitulement and a hand-coloured diagram within the space of 5 days (including Saturday which in those days was an ordinary working day for legal offices, and Sunday which was not).

Ordinarily Colenso's own lawyer would have been asked to prepare the Probate Application, but for whatever reason, Sainsbury & Logan were instructed by the Executors and Trustees of the Estate (EW Knowles Proprietor of the Daily Telegraph and client of the firm, JB Fielder Accountant and CH Edwards, Gas Manager) to prepare the Probate Application for Colenso's last Will (and Codicil) and act on the Estate.

That accounts for the "Sainsbury & Logan" moniker on the backing sheet of the Probate Application, although by the time the Trustees were in a position to realise the Estate assets it appeared that Ridley Latimer Colenso (William Colenso's son and heir) had asked Heathcote Williams (then a partner in the firm Williams & White) to take an active role on his behalf as will be seen from his draft pleadings in relation to the road-vesting issue he was were required to negotiate with the Napier Borough Council [2].

Heathcote Williams was not to join George Sainsbury and Francis Logan in partnership until 1<sup>st</sup> January 1900. He later became a partner contemporaneously with Francis Logan in the Hastings based firm of Logan Williams & White in 1902, a year after George Sainsbury had been lost overboard on the *SS Monowai* [3].

William Colenso had lived and worked alongside Henry Williams in the Bay of Islands, the very first Church Missionary Society missionary to reside permanently in New Zealand. They were both present and took an active role in the signing of Tiriti o Waitangi [4]. Colenso did not always see eye to eye with Henry Williams [5]. Ironically, 59 years after the signing of the Treaty, Henry Williams' grandson, Heathcote Williams [6], was instrumental in administering Colenso's Estate.

The documents probably came to be stored in the Sainsbury Logan & Williams strong room when Heathcote Williams became a partner and operated out of the Napier office before practising in the Hastings "branch" office of Logan Williams & White in 1913. If they had been stored anywhere else they would most probably have been lost in the Hawke's Bay Earthquake.

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2. See the handwritten draft *Statement of Claim* (later in this sub-chapter) prepared by Heathcote Williams and the legal opinions provided to him by his former colleagues at Bell Gully in Wellington. It will be noted that the abbreviation "W & W" appears on the backing sheet of the draft pleadings which would signify that Heathcote was acting for young Colenso in Heathcote's capacity as a partner of Williams & White, Hastings. See Chapter 4 under the heading *Practice*.

3. See Chapter 2 under the heading *Demise*.

4. *The Treaty of Waitangi*, one of New Zealand's important foundation documents signed in 1840. Williams translated it into Maori from Hobson's draft and Colenso printed the invitations to the Chiefs (in Maori) and the white settlers and British residents (in English). See Caroline Fitzgerald (Editor) *Te Wiremu – Henry Williams: Early Years in the North*, Huia Publishers, Wellington, 2011 at pages 315 and 317.

5. *Ibid*, at page 237.

6. Born at Pakaraka in the Bay of Islands in 1859, the third son of John William Williams and Sarah Busby. See Chapter 4 under the heading *Born*.





**In the Supreme Court**  
of New Zealand  
Wellington District



**In the matter** of the Will of  
William Colenso late of Napier in  
the Provincial District of Hawke's Bay  
Clerk in Holy Orders deceased

**Be it known** to all men that on this fifteenth  
day of February One thousand eight hundred and ninety-  
nine the last will and testament with Codicil thereto of  
William Colenso deceased true Copies of which are hereto  
annexed have been exhibited read and proved before His  
Honour Sir James Prendergast Knight Chief Justice of  
the Supreme Court of the Colony of New Zealand and  
administration of the estate effects and credits of the deceased  
have been and **is hereby granted** to Edward William  
Knowles of Napier in the Provincial District of Hawke's  
Bay Newspaper Proprietor John Beckett Fielder of the  
same place accountant and Charles Howard Edwards of  
the same place Manager of the Napier Gas Company Limited  
the Executors in the said will and testament named being first  
sworn faithfully to execute the said will and Codicil by  
paying the debts and legacies of the deceased so far as the  
property will extend and the law binds.

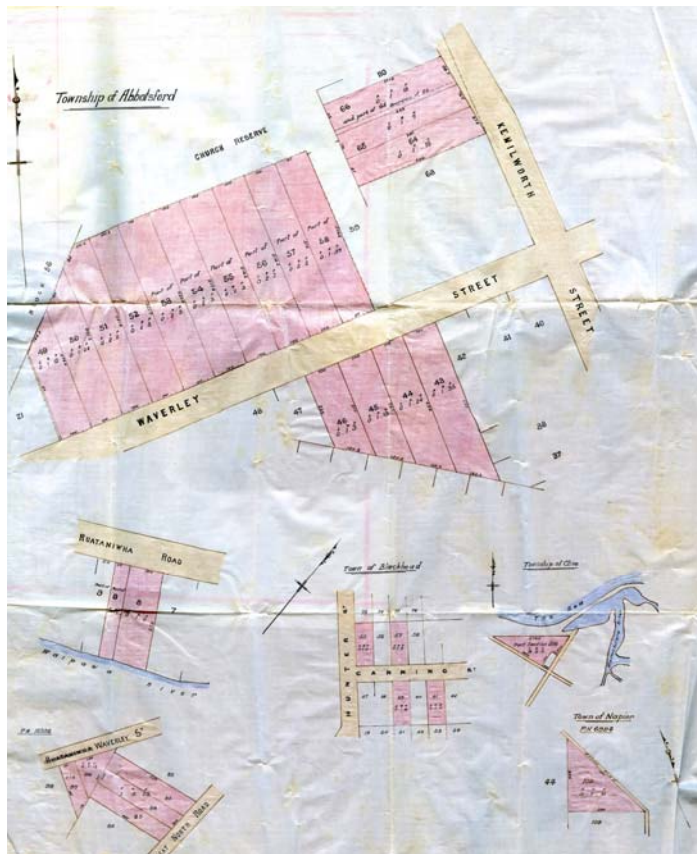


**Given** under the seal of the  
Supreme Court of New Zealand at  
Napier this fifteenth day of February  
One thousand eight hundred and  
ninety-nine

Registrar

◀**Fig. 1 (p.4):** Front page of the original Probate of William Colenso's Will. The document is notable for its combination of Old English and copperplate writing on foolscap goatskin vellum, sewn at the spine with green ribbon-like thread and stamped on the face of the document with *ad valorem* stamps affixed to the original Probate totalling £1851 3/- in stamp duty and then over-stamped by the revenue office. William Colenso died on 10 February 1899. Probate was granted 5 days later on 15 February 1899. This would have meant that the confidential clerks employed by Sainsbury & Logan had to reproduce a copperplate facsimile of Colenso's Will and Codicil (all 12 pages of it) including a hand coloured diagram of his property holdings (in Abbotsford [Waipawa], Clive and Napier) for submitting with the Probate Application in less than 5 days in order for the Supreme Court to be able to issue out the Probate through the Registrar's Office. According to the official records, Colenso died on a Friday (10<sup>th</sup>), was buried on Sunday (12<sup>th</sup>) at 3pm and his Probate granted on Wednesday (15<sup>th</sup>). No wonder that his Executors complained about the indecent haste with which Colenso's eldest son Ridley Latimer Colenso sold the assets and wound up the Estate (see below).

Image source: Hawke's Bay Museum and Art Gallery.



**Fig. 2: →**  
Diagram  
page of the  
same docu-  
ment show-  
ing the loca-  
tion of Wil-  
liam  
Colenso's  
land hold-  
ings. Image  
source:  
Hawke's Bay  
Museum and  
Art Gallery.

William Colenso had led a full and colourful life as a missionary, clergyman, printer, explorer, botanist, politician, school inspector and writer [7]. He had three adult children as at the date of his death. The legitimate son and heir was Ridley Latimer Colenso who permanently resided in Southampton, England [8]. He came back to New Zealand following his father's death and sold up the majority of the estate property [9]. He was criticised by the executors and trustees (one of whom was the editor of the Daily Telegraph newspaper) [10]:

...not to make things pleasant for a legatee who has made haste to dispose of his windfall... [and]

...if the Council can legally defy the tin thunder of Mr Colenso's legal advisers they will do so...[11]

Colenso had a son (Wiremu) to a member of his congregation, Ripeka when he was living at Waitangi (in the confluence of the Ngaruroro and Tutaekuri rivers). Wiremu's legal status in those days was as an illegitimate son and therefore he could not naturally take under the Will or lay claim to the Estate unless specific provision was made for him.

The passages of Colenso's Will dealing with his wife Elizabeth and his son Wiremu are poignant [12]:

I give and bequeath to my wife Elizabeth if living at the time of my decease (she having left me against my wish and of her own accord in 1853 and I never having heard from her since that year) the sum of One hundred pounds but merely as a token of forgiveness, she having real property of her own.

...

I give and bequeath to my natural son William Colenso born and brought up here in Napier and educated by me...at present residing with his wife at Glen Trewithen in Penzance England the sum of two thousand pounds.

He changed these latter arrangements in his Codicil some 13 months later by revoking the £2000 bequest to his son William and replacing that with the sum of £500 [13].

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7. See A. G. Bagnall & G. C. Petersen **William Colenso: Printer, Missionary, Botanist, Explorer, Politician** 1948, AH & AW Reed, Wellington.

8. There is a letter amongst the HBMA papers from young Colenso (writing from Southampton) addressed to Heathcote Williams dealing with aspects of the Estate.

9. Including his library of books which were reported in September 1899 to have been sold to Angus and Robertson of Melbourne: *Hawkes Bay Herald* 9.9.1899. See also Colenso Society Newsletters, July 2010, page 2.

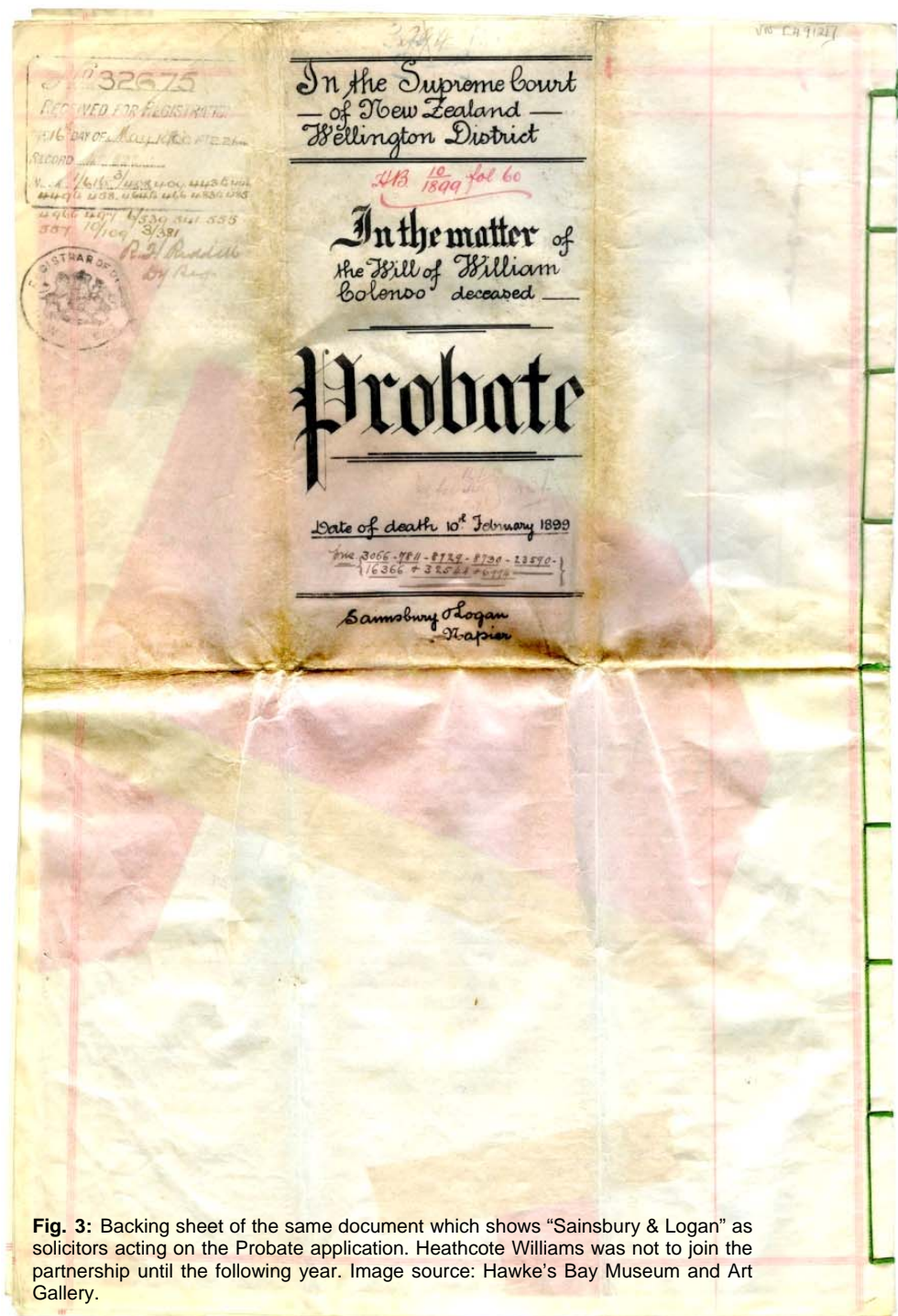
10. *The Daily Telegraph*, 18.1.1900.

11. *The Daily Telegraph*, 8.3.1900 and see Colenso Papers, HBMA, Series 3, Folder 6.

12. Pages 1 and 2 of his Probated Will respectively, refer Appendix 4.

13. See page 7 of his Probated Will. Apparently, William Colenso regularly sent money and assisted his natural son in many other ways including the provision the property in Penzance at a peppercorn rental.





**Fig. 3:** Backing sheet of the same document which shows “Sainsbury & Logan” as solicitors acting on the Probate application. Heathcote Williams was not to join the partnership until the following year. Image source: Hawke's Bay Museum and Art Gallery.

His philanthropic qualities shone through also in his Codicil where he made the following provisions [14]:

And as I have on pages 5 and 6 of my said Will given and bequeathed to the Mayor and the Corporation of the [B]orough of Napier the sum of Five-hundred pounds to be by them invested as therein stated for assisting poor prisoners on their discharge from the Common Gaol in Napier. I now declare as my wish and devise in addition to what has already been written... that all prisoners on being so discharged shall be alike relieved and aided on their leaving the said gaol whether such unfortunates may have been committed to gaol as vagrants or for any short period or term of imprisonment [15].

...

I give and bequeath to my friend R.C. Harding of Wellington printer all my printing materials including a small Albion printing press complete type new and old, printers cases, coloured inks &c. &c and also my sole composing stick – with which I did so much work both in England and New Zealand.

...

I give and bequeath to the Government of the Colony of New Zealand all my M.S.S. [manuscripts] of the Maori-English Lexicon on which I was formerly occupied for them together with all Maori letters and other M.S. [manuscripts] pertaining to the same (a large quantity) excepting however all official correspondence with the Government respecting the said work: Provided Always that they...first pay to my Executors the sum of Three hundred pounds long owing to me for work done for the Government and outlays made by me in connection with the same as stated by me in my letters to the Government of June 30<sup>th</sup> and August 16<sup>th</sup> 1886 [16].

...

Moreover, and in continuation of my special bequeathment [namely, the donation of all his “dried plants...zoological and other wet natural history specimens” to the Hawke’s Bay Philosophical Institute] written on page 6 of this my Codicil should that not be carried out (through the said Hawke’s Bay Philosophical Institute having become defunct or fallen into a state of inanition) then in that case my desire and wish is that my three friends [Henry

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14. At page 8 of the Probated Will.

15. Note that Colenso spent time with Kereopa Te Rau in Napier Gaol and unsuccessfully pleaded with the authorities for clemency before he was hanged for the murder of Reverend Volkner. This is all the more startling for the fact that Reverend Volkner belonged to the Church Missionary Society, for whom Colenso went to serve when he left England in 1834.

16. Colenso had been engaged by the (then) Government to translate and print a body of work which was to become a fully published Maori-English Lexicon but he apparently had never received the £300 payment as agreed. This fact is mentioned by R Coupland Harding in an obituary published by the Christchurch Press on 27 February 1899 and was obviously a sore topic with Colenso to the end of his life. The obituary is reproduced in the Colenso Society Newsletters, April 2010, page 7.



Hill, Inspector of Schools, William Isaac Spencer Surgeon and James Wren Carlile Solicitor] therein named shall as early as may be convenient to them get all my dry specimens of plants in their present rough state of packages lots bundles and boxes well and truly securely packed in cases lined with tin and send them to the Director of the Royal Botanical Gardens Kew London, all necessary expenses arising therefrom together with that of freight to London to be paid by my Executors and Trustees to this my Will and Codicil...

The Hawke's Bay Philosophical Institute was **not** in a state of inanition at the time of his death and the £200 donation and selection of botanical and zoological specimens, in fact, made their way into the possession of the Institute [17] (**see next page**).

Amongst his other legatees were his close friends R. Coupland Harding [18], Dr Spencer [19], Augustus Hamilton, Henry Hill, Reverend Robertshawe, Eccles and Hovell (Dean of Waiapu and the Minister who married Francis Logan and Louisa Taylor in 1882), Peter Winkelman, Philip Dolbel Snr, John Drummond and Sir Joseph Hooker [20]. He even recognised his faithful old servant Robert Anderson with a sum of £50 "...if residing with me at the time of my decease..." [21]. William Colenso was also keen to relieve the poor from misery and suffering by bequeathing a sum of £1000 to be held by the Mayor and Corporation with the annual income to be "...fairly di-

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17. *Transactions and Proceedings of the Royal Society of New Zealand*, at page 444, National Library. At the time of his death, the specimens were with Mr Cheeseman (of Auckland) for classification. Henry Hill had them returned to Hawke's Bay where they were then offered up to the Government on loan for display at the Colonial Museum. They were delivered in 1905. Whilst on display there, they came to be mixed up and separated from their tags containing the descriptive detail. That was reported in 1937 to Mr Bruce Hamlin Curator of Botany at the National Museum of New Zealand. In 1947 the whole set was sold to the Dominion of New Zealand by the Royal Society of New Zealand (Hawke's Bay Branch) for a sum of £100. Bruce Hamlin then worked on preparing a revised itinerary and research notes until his death in 1976. Both the notes and the specimens are now located at Te Papa, Wellington: refer Ian St George (Comp), **Colenso's Collections**, The New Zealand Native Orchid Group Inc., Wellington, 2009. Kew Gardens has a number of letters from Sainsbury & Logan in relation to Colenso's legacy to Sir Joseph Hooker.
  18. A publisher from Wellington who received £100, with another £100 in trust for Harding's son and Colenso's namesake, William Colenso Harding. For a list of others who took on Colenso's name see the Colenso Society Newsletters, April 2010, page 11: [ian.stgeorge@nzcgp.org.nz](mailto:ian.stgeorge@nzcgp.org.nz).
  19. William Isaac Spencer was an army surgeon and came to New Zealand with the military who fought in the second Maori war and settled in Napier. He became Napier Borough Council's third mayor. **The Cyclopaedia of New Zealand [Taranaki, Hawke's Bay and Wellington Provincial Districts]**, The Cyclopaedia Company Limited, Christchurch, 1908 at page 311, available from: [www.nzetc.org](http://www.nzetc.org). He in fact predeceased William Colenso by two years, dying in 1897 at the age of 65 years (however, his legacy of £100 was not made subject to his surviving Colenso).
  20. Pages 1 and 2 of his Probated Will. Kew Gardens has a number of letters from Sainsbury & Logan on behalf of the Executors in relation to Colenso's legacy to Sir Joseph Hooker. Ian St George (Comp), **Colenso's Collections**, The New Zealand Native Orchid Group Inc., Wellington, 2009 at page 394.
  21. *Ibid*, page 2.

vided on the first day of July in every year after my decease among twenty (or more) of the poorest families of the said Borough of Napier..." [22].

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### ANNUAL MEETING: 9th February, 1900.

#### ABSTRACT OF ANNUAL REPORT.

During the session six ordinary and three extraordinary meetings were held, and at these meetings seven papers were read and five lectures delivered. The lectures in particular were well attended.

The Council held sixteen meetings during the year, and transacted a large amount of general business.

The Council regret to report that by death the Institute lost two of its oldest members—Rev. William Colenso, F.R.S., F.L.S., and Mr. John Harding. Several others have withdrawn from membership, but a number of new members have been elected, and the roll shows an increase of two, making a total of sixty-two. By his will the late Mr. Colenso left to the Institute, for the benefit of the Museum and library, the sum of £200, as well as all his dried plants, and zoological and other wet natural-history specimens, and several of his pictures. The Council placed the sum of £75 on fixed deposit, and decided to spend the remainder on books and a lantern. Ninety-four volumes (including two fine volumes of "Archæological Essays," presented by Mr. J. W. Craig) have been added to the library, and a first-class lantern has been ordered, and is expected in time for the work of the coming session. A portion of the money was also spent in the purchase of a microscope, which is now available for the use of members. In connection with Mr. Colenso's death the following resolution had been passed by the Institute: "That this branch of the New Zealand Institute places upon record the great loss it has sustained by the death of the Rev. William Colenso, F.R.S., F.L.S., who from its foundation was closely connected with the society as secretary, president, and member of the Council, and, as a contributor of papers on botany, anthropology, and kindred subjects, has done much for the advancement of science throughout the world."

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He requested that he be "...buried in the most simple and inexpensive manner..." [23]. It is reported that he in fact had a very modest funeral which was not attended by anyone from his immediate family.

The estate duty of £1851/3/- was a significant sum of money. It arose out of the present-day value in 1899 of his extensive landholdings which are all listed in his Probate Inventory. Colenso had purchased a tract of land on Napier Hill (now Colenso Ave) and named one of the intersecting roads "Hooker Terrace" (now Hooker Ave) after his

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22. *Ibid.* This is called the William Colenso Bequest and according to the Napier City Council Minutes of March 2010, is still being distributed 111 years later. Currently \$3200 is set to be distributed over the next 3 years.

23. Page 1 of his Probated Will.

life long friend and correspondent JD Hooker, Director of Kew Gardens [24]. Natural children received a refund of half this amount for any property devolving on them [25] but some of the beneficiaries named in the Will were “strangers in blood” and so the rebate was not available to them including (presumably) Wiremu Colenso. An opinion was sought on the question and on the liability of the Executors and Trustees of the Estate for duty that might be payable in England [26].

Ridley Latimer Colenso sold the land, which now forms part of Colenso Ave and May Ave. He did so by auction. He had the land surveyed into Lots. The road width was a narrow one and the surveyor did not anticipate the Napier Borough Council’s reaction. The auction was held. The Lots were sold. At the point where young Colenso required the Council to take over the ownership and maintenance of the road (Colenso Ave) the Council refused. It said that it would not do so because the road was too narrow. Apparently there was also an issue about spoil falling onto the road if the widening work was completed by Council which would render the Council liable for any resulting damage to neighbours or property. Council had a minimum width requirement of 40 feet. Moreover the Council contended that it was not even legally possible for the road to be vested in its (then) state. Colenso argued that the area taken to provide a proper road width would have consumed an additional 5 acres out of a total of 30 acres sold to private persons. Colenso having already sold the Lots was well and truly on the horns of a dilemma because he could not then turn around and transfer the Lots to the original purchasers in a different configuration containing less land than they had bargained for. He was well and truly stuck.

His dilemma is best described in draft correspondence on the subject prepared by Heathcote Williams [27]:

After approval...after work practically completed, after [being] sold and made liable to 29 purchasers [Hoadley & Co were the Auctioneers]...Council withdrew assent unless all sorts of new and onerous conditions are complied with...

He could not get the Borough Council to take over the long-term maintenance of the road. Draft pleadings were prepared by Heathcote Williams and an opinion was obtained from Sir Francis Bell KC of the firm Bell Gully Bell & Myers. Sir Francis Bell was one of Heathcote Williams’ former colleagues and close friends [28].

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24. In a letter to JD Hooker dated 13 September 1862, William Colenso wrote: “I may tell you that in the town of Napier, Hawke’s Bay where I reside...in laying out a piece of ground I have nearly in the centre of the said Town [,] I have named the two streets of the same, “Banks Street”, “Hooker Terrace.” The neighbouring streets are Owen- Faraday - Milton – Goldsmith – Shakespeare – Chaucer – Carlyle – Hastings - &c, &c so you are in good company”: Ian St George (Comp), *Colenso’s Collections*, The New Zealand Native Orchid Group Inc., Wellington, 2009 at page 307.

25. *The Deceased Persons Estates Duties Act 1881* (Section 37).

26. See *Colenso Papers*, HBMA, Series 1, Folder 5.

27. See *Colenso Papers*, HBMA, Series 3 Folder 5.

28. See Chapter 4 under the heading Demise.

No.

In the Supreme Court  
of New Zealand  
Wellington District

Between Rudolph Latimer Coleuso  
of the Southampton  
England Plaintiff

and

The Mayor Councillors Burgesses  
of the Borough of Lapanes Defendants

on the day of 1900.

The Plaintiff by Edward Heatheote Williams his  
Solicitor says.

1. The Plaintiff is the owner of certain lands situate within the Borough of <sup>the northern portion of Subur</sup> ~~hampden~~ <sup>hampden</sup> sections Nos 39. 40 41. 42. 43. 44 72 ~~the whole of Town~~

containing an area 29<sup>a</sup> 3. 22 more or less

$$\frac{20.9 \cdot 22}{20.9 \cdot 22}$$

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And The defendant Corporation is the Local Body.  
Over the said lands  
having jurisdiction, under the Municipal Corporations  
act 1886 & the acts amending the same ~~over the same~~

2. In the month of August 1899 The  
Plaintiff having in view the cutting up and  
sale of the said lands by public auction <sup>commenced</sup> ~~wrote~~  
a correspondence with  
to the Def<sup>t</sup> Corporation relative to the roading  
of the said lands and on the 20<sup>th</sup> Sept  
1899 the Plaintiff ~~wrote to the~~ Def<sup>t</sup> Corporation  
~~a letter in the words & figures following~~  
passed a resolution in meeting of the Council  
of the Def<sup>t</sup> Corporation  
of which the following is a copy. "proposed roads not  
to be taken over unless made 40 ft wide & formed metalled  
to Councils satisfaction"

3. On the 31<sup>st</sup> day of Oct 1899 The Plaintiff wrote  
to the Def<sup>t</sup> Corporation a letter in the words & figures  
following

4. The Plaintiff as instructed by the said Corporation in their letter of the 2nd Nov 1899. ~~furnished~~ furnished the said Corporation with a tracing of the proposed roads and a copy of the specifications relating to the forming, metalling, and completion of the said roads and such specifications were retained by the said Corporation and filed by ~~them~~ it -

5. The Plaintiff relying upon the <sup>said</sup> resolutions and the letters of the 31<sup>st</sup> day of Oct 1899 & the 2nd day of Nov 1899 upon the fact that the said Corporation had in its possession the said plans & specifications <sup>that approved of the same</sup> commenced to road the said lands on the day of 1889 &

Completed the work on the day of 1899 at a cost of £

6.7. During the progress of the work referred to in the last preceding para The said Corporation raised no objection to such work & did not nor did anyone on

6

behalf of the said corporation <sup>or anyone</sup> who holds the  
plaintiff, that <sup>at any time</sup> ~~the~~ <sup>such</sup> work ~~then~~ being carried  
~~out~~ would not meet with the approval of  
the said corporation

7. The ~~said~~ Plaintiff ~~is~~ <sup>relying upon</sup> ~~full release~~ <sup>the</sup>  
his correspondence with the said corporation particularly  
his resolutions, ~~the~~ <sup>the</sup> letters of the 31<sup>st</sup> day of  
Oct 1899 & the 2nd day of Nov 1899 offered the  
said lands <sup>subdivided into lots</sup> for sale by public auction on the

13<sup>th</sup> day of Dec 1899 and at such auction  
offered purchasers a title on the 28<sup>th</sup> day of Feb 1900 as soon thereafter as possible  
and ~~the Plaintiff~~ <sup>at such sale</sup> sold a large number of allotments to

~~the~~ 1) purchasers <sup>14</sup> The Plaintiff applied to the S.L. Hwy. at  
8.9. On the 17<sup>th</sup> day of Jan 1899 under the provisions of the Land Transfer Act 1855 the said  
Napier City Council <sup>engaged the Council</sup> immediately <sup>the</sup> said roads were completed

10.9 on the 17<sup>th</sup> day of Jan 1900  
the Plaintiff wrote to the said corporation  
requesting The said corporation to endorse its  
consent on the plan of the <sup>subdivision of the</sup> said lands in order  
that such plan might be deposited in the Lands Registry  
office <sup>at Napier</sup> of further <sup>informing</sup> the said corp <sup>that the roads were ready to be</sup> taken  
over the said roads - The said letter was in the

words & figures following



9.<sup>10</sup> The seft corporation declined to consent  
to the sd plan or to take over the said  
roads or any of them and by letter bearing  
date the 16<sup>th</sup> day of Feb ~~1899~~ 1900 ~~intimated~~  
notified the Plaintiff that further work ~~was~~  
<sup>difficult</sup> to that agreed to by the sd resolutions <sup>of the</sup>  
31<sup>st</sup> day of Oct 1899 <sup>the 2<sup>nd</sup> day of Nov 1899</sup> <sup>of</sup> money must  
involving a large sum of money  
be carried out by him on the said roads

12. The Plaintiff craves leave to refer to and  
read at the trial of this action the whole or any  
part of the letters that have been written by the  
seft corp or by the seft corp to the  
Plaintiff <sup>in relation to the subject matter of this action</sup> and also <sup>the</sup> minutes passed by the  
Council of the seft corp which relate to the subject  
matter of this action

The Plaintiff prays that this Hon Court will  
be pleased to order and decree that the seft corporation  
give its written consent to the said place  
so that the same may be kept in the Lands  
Registry office <sup>Napier</sup>  
and the Plaintiff further prays for such further or other  
relief as to this Hon Court may seem meet.

And for a further cause of action The  
Plaintiff says

11. <sup>13</sup>~~12~~ He repeats the allegations in paras  
1 to 10 inclusive of this statement  
of claim contained

12. <sup>14</sup> He says that ~~owing to~~ in consequence  
of the deft corporation withholding its  
consent to the said plan when applied  
to by the Plff on the day of 1900

~~refusing to take over the said roads~~  
~~as public roads~~ that the Plaintiff has  
been unable to <sup>proceed with his effort</sup> execute any transfers of the said  
lands to any purchasers thereof

B. 15. ~~The~~ ~~Plff~~ ~~has~~ Since the said roads  
finished &  
were completed in ~~accordance~~ terms of  
the ~~the~~ minutes of the Council of the said  
Corporation in accordance with the said  
letters of the 31<sup>st</sup> day of Oct 1899 & the  
2<sup>nd</sup> day of Nov 1899 in consequence of the  
wrongful neglect & refusal of the said  
Corp to consent to the said plan & take  
over the said roads as public roads the  
Plaintiff has incurred expense in maintaining  
the said roads to the standard they were  
in on completion in supervising such  
maintenance.

Legal expenses  
less of ~~but - not~~  
—

ho

In the Supreme Court  
of New Zealand  
Wellington District

Colenso

v

The Mayor, Councillors &  
Burgesses of the Borough  
of Napier

Draft

Statement of claim

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W & W  
Napier

**Fig. 4:** Note the "W & W" moniker on the bottom of the backing sheet which probably was an abbreviation of "Williams & White" who initially acted for Ridley Latimer Colenso, the Plaintiff. Image source: Hawke's Bay Museum and Art Gallery.



BELL, GULLY, BELL & MYERS.  
BARRISTERS & SOLICITORS.

FRANCIS HENRY DILLON BELL, Notary Public.  
HUGH GULLY,  
ERNEST TANCRED DILLON BELL, Notary Public & Patent Agent.  
MICHAEL MYERS, LL.B.

E. W. Williams Esq.,

Solicitor,

Napier.

Dear Williams,

*Panama Street.*

*Wellington, N.Z. 19th April, 1900.*

*Ans'd 11.5.00*

Re Colenso.

In Gully's absence (he returns tomorrow), I have taken in hand the matter referred to in your letter of the 10th Inst., and I now return the papers, with the exception of the Conditions of Sale and plan, which I propose to retain for a short time.

I do not see that any alteration can be usefully made in the declaration for presentation to the District Land Registrar. In the Application I think you should omit the five lines which I have struck out at the end in pencil. It will be time enough to threaten the Supreme Court when you get his refusal, if you still determine to proceed.

- - - - -

As you have specially asked that I should look at the papers and express my opinion, I think it best to do so in a letter addressed to yourself rather than to your firm.

I do not know to what extent the additional demands of the Borough Council will commit your client; but unless the expense be very extreme, I strongly advise you to submit, unjust as the action appears to have been. My principal reason is this: Section 252 of The Municipal Corporations Act provides that no person shall lay out or make any private streets except by permission of the Council &c. Then Section 265 makes a separate provision for declaring a private

Fig. 5: Note paragraph 3 of this letter "As you have specially asked that I should look at the papers and express my opinion [this was a letter under the hand of Sir Francis Bell and would have carried much weight even at this time], I think it best to do so in a letter addressed to yourself rather than your firm [that is because the advice was going to be extremely unpalatable to Heathcote both personally and professionally]. Image source: [Hawke's Bay Museum and Art Gallery](#).

street to be a public street.

Now as to Section 265, it is clear that Section 4 of The Municipal Corporations Act Amendment Act 1887 applies; but that Section applies only to the taking over and declaring a private street to be a public street notwithstanding its being less than 66 feet wide. It has no reference to permission to construct a private street. By Section 233 of The Municipal Corporations Act, a private street shall not be less than 66 feet wide.

It is quite intelligible to read Section 4 of the Act of 1887 as relating to streets and roads which then existed in the Borough of Napier. No doubt it is arguable that the spirit and intention of the Section is such as to authorise the subsequent construction of streets less than 66 feet wide; but certainly a literal interpretation of the Section would not permit that. I must say that it seems to me that you have a serious battle before you when you contend that Section 4 of the Act of 1887 - which nowhere refers to permission to construct a private street - is to be extended so as after the passing of that Act to authorise the Council to permit the construction of private streets less than 66 feet wide.

It is too late now to call them rights of way; and, even if it were not too late, I have always thought that when a question comes before the court as to whether a street open at both ends, and necessarily available to the public, and occupied by buildings along its whole length, can properly be called a right of way, that question will be decided in the negative.

You will observe that I am not expressing dissent from the opinion of Martin and Gully as to the course to be pursued on the assumption that you have the permission of the Borough Council. I do not

feel as clear as they are that the provisions of Section 252 authorising the Council to impose conditions are to be read as requiring the Council to impose all the conditions at the time it gives the permission to begin the construction; but of course you have a very strong case on that point, and I should not take the responsibility upon myself of advising <sup>your</sup> ~~mm~~ client to pay a large sum to avoid a contest upon it.

But under Section 254, no plan may be received for deposit or registration whereby any private street or roadway contrary to the provisions of The Municipal Corporations Act 1866 shall be created recognised referred to or reserved; and I think that these streets being less than 66 feet are all of them contrary to the conditions of that Act; and I further think the provisions of Section 4 of the Act of 1887 permitting the Borough of Napier to declare private streets less than 66 feet wide to be public streets relates only to streets in existence at the time of the passing of the Act of 1887, and does not refer to a permission to lay out private streets thereafter, or prevent a street, whether permitted or not, thereafter laid out from being contrary to the provisions of The Municipal Corporations Act. For myself therefore I think that your action will fail.

- - - - -

I said above that I retained the Particulars and Conditions of Sale for further consideration. It is a very grave question indeed for your client, who has sold land upon a sale plan purporting to front on private streets. If those streets are utterly invalid; if you cannot establish your right: and if, in the course of litigation, it turns out that the point I have now raised absolutely bars the Council from ~~making~~ granting permission at all: then I think it is almost serious

Fig. 6: Note the words in the third paragraph "...It is a very grave question indeed for your client, who has sold land upon a sale plan purporting to front on private streets. If those streets are utterly invalid...then I think it is a most serious position for your client, , [sic] and a somewhat awkward position for yourself..."



position for your client,,and a somewhat awkward position for yourself. Certainly there has been a representation that people buying this land will have frontage to a roadway, whether the Conditions have guaranteed them that or not. Possibly they may not be entitled to damages: to nothing more than to have their money back with interest; but at least they must be entitled to that, if it is found that they have not the means of access which the plan represented that they should have. I shall not go into this particular point more fully until I hear from you what course you intend to take.

- - - - -

I cannot but strongly advise you to agree with your adversary quickly, if it be in any way possible. The Borough Council is apparently unaware of any difficulty in the way of giving its permission. It apparently will have no difficulty in taking over the roads if you construct them as they require. If the plan is registered, or the roads are taken over, legally or illegally, I do not suppose that the question will ever or can ever be raised; but if you go to law to establish the fact that you have the permission, and if the result of that litigation is to show that the Council never had authority to grant you any permission at all, the position will be a most difficult one.

- - - - -

I have written fully, and perhaps with less evidence of hesitation than I should have done having regard to the fact of the strong opinion you have previously had from both Gully and Martin. You and I have had difficult cases together, and have managed to steer out of a mess. I think most strongly that your head is now pointed direct into a mess, and I beg you to stop before you plunge into it any further,

**Fig. 7:** The crux of this whole opinion, and the demonstration of the strong collegial relationship Heathcote had with his former colleague is evidenced in the penultimate paragraph: "...I cannot but strongly advise you to agree with your adversary quickly, if it be in any way possible..."[final paragraph] I have written fully, and perhaps with less evidence of hesitation than I should have done having regard to the fact of the strong opinion you have previously had from both Gully and Martin. You and I have had difficult cases together, and have managed to steer out of a mess. I think most strongly that your head is pointed direct into a mess, and I beg you to stop before you plunge into it any further, however distasteful it may be to seem to come down before the unfair demands of the Borough Council and to abandon a position which you have taken so strongly."

however distasteful it may be to seem to come down before the unfair demands of the Borough Council and to abandon a position which you have taken so strongly.

Believe me to be

Most sincerely yours,

*H. O. Colenso*

The opinion was unfavourable and accordingly a settlement was reached between young Colenso and Napier Borough Council whereby for the payment of a £400 bond the Council agreed to take the road over in its current configuration (too narrow for its existing by-laws) but agreed to continue to maintain that in perpetuity. Any balance left over after the essential work was completed would be refunded, and any additional cost would be borne by the Borough Council [29].

It is not known what responsibility the surveyors (for whom Kennedy Bros acted) had in all of this because they ought to have known the requirements of the Municipal Corporations Act notwithstanding the assurances they received from the Borough Council when the tracings were submitted, but they would most certainly have been looked at closely by Colenso's lawyers.

In the throes of resolving these issues it is clear from the papers that the current-day dog-leg and hairpin that is an extension of Tennyson Street was required for access to Colenso Ave because the way up Milton Road was far too steep [30].

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29. See Colenso Papers, HBMAg, Series 3, Folder 4. Kennedy & Lusk were acting for the Napier Borough Council and it is not known how this ended up except to say that £400 was in 1900 a substantial amount of money for a straightforward road-widening and maintenance exercise and would have made a sizeable dent in the total amount available to young Colenso from the Estate.

30. See Colenso Papers, HBMAg, Series 3, Folder 3.



Young Colenso then returned to the UK on the *Elingamite* [31] on 25 July 1899. He was pleased in the end with the settlement that had been achieved on his behalf by Heathcote Williams [32]. It is not known whether he visited New Zealand again.

In Colenso's probate inventory it is interesting to note that he died in possession of "2 Cases of Mission Wine" (observing that the Catholic fathers at the Mission were one of the first ones on the New Zealand wine scene).

This throws up an interesting point about Colenso and his support for the temperance movement. According to his close friend R Coupland Harding [33]:

When he [Colenso] landed in 1834, drunkenness was fearfully prevalent, and he and others formed the first New Zealand Temperance Society, the "rules" of which constituted the first book in English printed in New Zealand. His temperance pledge he faithfully kept throughout his life. It was a pledge of an early phase of the movement and did not apply to fermented liquors. To the end of his days he held spirits and tobacco in utter detestation. To prohibition orators and leagues he had an almost equal aversion.

Colenso only had wines and fortified wines (including port) in his cellar at the date of his death [34].

It is interesting to note that in 1899, with only rudimentary copying techniques available, there is a note of fee payable by the Executors for the copy of an instrument required to be filed at the rate of sixpence for every 72 words (or a penny for every 12 words) [35]. The old saying that "lawyers charge by the word" is given added veracity with what seems incontrovertible evidence in this Estate documentation.

Following probate and distribution of the estate the important documents remained with Sainsbury Logan & Williams and were in the strong room at the time of the 1931 Earthquake.

They were donated by the firm to the Hawke's Bay Museum Library when Allan McLeod (Partner of Sainsbury Logan & Williams) had reviewed the contents of the deeds safe. This was some time in 1979.

## Appendix: full text of William Colenso's probated will & codicil

Digitally scanned from the original document kindly made available for that purpose by Hawke's Bay Museum and Art Gallery (Gail Pope).

— see p.28 *et seq.*

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31. On 9 November, on another voyage that same year, the steamer *Elingamite* was wrecked on the Three Kings Islands, north of Cape Reinga, with the loss of 45 lives.

32. See *Colenso Papers*, HBMA<sup>G</sup>, Series 4, Folder 1.

33. Obituary published in the *Press*, Christchurch 27.2.1899. See *Colenso Society Newsletters*, April 2010, page 10.

34. *Probate Inventory*, *Colenso Papers*, HBMA<sup>G</sup>

THIRD SCHEDULE—continued.

(2.) Plate, Jewels, and Ornaments.	Value.
1 Silver watch	5 . .
2 Seals <span style="float: right;">£ 1/10 each</span>	3 . .
	<u>£ 6 . .</u>
(3.) Wines, Spirits, and Liquors.	Value.
5 Bottles of wine	10 . .
4 Cases of Colonial Port.	5 . .
1 Case of Champagne	5 . .
16 Bottles of Champagne Carte L'or	4 . .
2 Cases of Mission wine	2 8 .
1 Case of Colonial wine	1 4 .
1 " " wine (waterhouse)	1 4 .
18 Bottles " " "	1 16 .
12 " " Colonial wine	1 4 .
10 " " " "	1 . .
11 " " " Port	1 13 .
12 " " " "	1 16 .
2 " " French wine	10 . .
	<u>£ 27 5 .</u>

**Fig. 8:** Probate Return for the estate of Williams Colenso showing that he died in 1899 with two cases of Mission wine (worth £2/8 shillings) in his cellar at the date of death. Original Probate Inventory. Image source: ~~Hawke's~~ Bay Museum and Art Gallery.



**In the Supreme Court  
of New Zealand  
Wellington District**



**In the matter** of the Will of  
William Colonso late of Napier in  
the Provincial District of Hawke's Bay  
deceased

**Be it known** to all men that on this Fifteenth  
day of February One thousand eight hundred and ninety-  
nine the last will and testament with Codicil thereto of  
William Colonso deceased true Copies of which are herunto  
annexed have been exhibited read and proved before His  
Honour Sir James Prendergast Knight Chief Justice of  
the Supreme Court of the Colony of New Zealand and  
administration of the estate effects and credits of the deceased  
hath been and **is hereby granted** to Edward William  
Knowles of Napier in the Provincial District of Hawke's  
Bay Newspaper Proprietor John Beckett Fielder of the  
same place Accountant and Charles Howard Edwards of  
the same place Manager of the Napier Gas Company Limited  
the Executors in the said will and testament named being first  
sworn faithfully to execute the said will and Codicil by  
paying the debts and legacies of the deceased so far as the  
property will extend and the law binds



**Given** under the seal of the  
Supreme Court of New Zealand at  
Napier this Fifteenth day of February  
One thousand eight hundred and  
ninety-nine

Registrar





I William Colenso, Clerk in Holy Orders (and the first Missionary and for many years the only Christian Minister resident in these parts) of Napier in the Provincial District of Hawke's Bay and Chief of New Zealand, hereby revoke all Wills and other Testamentary dispositions heretofore made by me and declare this to be my last will.

I desire and direct that I may be buried in the most private simple and inexpensive manner.

I hereby appoint Edward William Knowles John Deethcott Fielder and Charles Howard Edwards all of the said town of Napier Executors my three Executors and Trustees to carry out the Instructions Devises and bequests of this my will, and that all just debts owing by me and funeral and testamentary expenses shall be paid by them paid as early as possible.

I give and bequeath to my wife Elizabeth if living at the time of my decease (she having left me against my wish and of her own accord in 1852 and I never having once heard from her since that year) the sum of One hundred pounds but merely as a token of forgiveness, she also having real property of her own.

I give and bequeath to my only daughter and first born child Frances (W. Colenso) Mary (of whom also I know nothing if living at the time of my decease, the sum of Two thousand pounds, but if deceased before me then to each of her children (if any) do shall attain the age of twenty-one years, share and share alike, but if no child of my said daughter shall attain twenty-one years then this said bequest of Two thousand pounds is to revert to my eldest son Ridley Lattimer Colenso her brother who can give my Executors his address, also their nothing if they should still be living.

I give and bequeath to my eldest son Ridley Lattimer Colenso a present residing at Rythe Southampton England the sum of Two hundred pounds the same to be paid to him by my said Executors as early as possible and within one month after my decease.

I give and bequeath to my brother Edmund Colenso of Geelong Victoria the sum of Five hundred pounds and in case of his dying before me then the same to his children share and share alike.

I give and bequeath to my niece Emma so Minnie Macons of Penzance England should she survive me the sum of Two hundred pounds the same to be paid to her by my Executors as early as convenient.

I give and bequeath to each of my three Executors and Trustees Edward William Knowles John Deethcott Fielder and Charles Howard Edwards the sum of Two hundred pounds free of legal duty.

I give and bequeath to my old acquaintance and friend George Thomas Lamm of Napier the sum of One hundred pounds.

I give and bequeath to my friend William Isaac Spencer Esquire Surgeon of Napier the sum of One hundred pounds to help him a little in carrying out his natural history researches.

I give and bequeath to my friend Augustus Hamilton of Dunedin the sum of One hundred pounds to aid him in the prosecution of his natural history pursuits which I hope he may ever steadily and reasonably continue.

I give and bequeath to my friend Henry Bill of Napier Inspector of Schools the sum of One hundred pounds.

I give and bequeath to my friend R. Conland Harding Printer and

Publisher of Wellington the sum of Two hundred pounds. One half of the same being in trust for his young son William Colenso Harding

I give and bequeath to my friend the Reverend Edward Robertshaw of Danvers the sum of One hundred pounds

I give and bequeath to my friend the Reverend John Charles Eccles of Woodville the sum of One hundred pounds

I give and bequeath to my friend the ( W. Colenso ) Esq. Reverend the Dean of Niagara de Becht Howell the sum of One hundred pounds

I give and bequeath to my friend the Reverend Robert Fraser of Havelock Hastings Bay the sum of One hundred pounds

I give and bequeath to my friend Peter Charles Winkelmann of Wainmawhin Hastings in trust for his son Walter Colenso Winkelmann the sum of One hundred pounds

I give and bequeath to my old friend Philip Dalbel Senior, Esquire of Springfield Hastings Bay the sum of two hundred pounds

I give and bequeath to John Drummond Esquire of P. of Carmichael in trust for his son William Drummond the sum of Fifty pounds

I give and bequeath to my dear old and proved friend Dr Joseph Dalton Hooker F.R.S.E. at present residing at the Camp

Summingdale Dorset, England the sum of Five hundred pounds and in the event of his dying before me then in that case to his widow Lady Hooker

I give and bequeath to my eldest son Dudley Selmer Colenso abroad his heart and assigns the sum of One thousand pounds

I give and bequeath to my natural son William Colenso born and brought up here in Napier and educated by me ( W. Colenso ) at present residing with his wife at Glen Trevelyan in Pongape England the sum of Two thousand pounds

I give and bequeath to my present old servant Robert Anderson if residing with me at the time of my decease the sum of Fifty pounds and to his son John Anderson the sum of Fifty pounds this latter bequest to be paid to him John Anderson even should his father have left my service

I give bequeath and devise unto the Mayor and Corporation for the time being of the Borough of Napier to hold in perpetual trust the sum of One thousand pounds to be by them securely invested and the yearly rent and profits arising therefrom are to be by them fairly divided and distributed on the first day of July in every year after my decease among twenty ( or more ) of the poorest families of the said Borough of Napier according to the number of each family, as they the said Mayor and Corporation shall deem to be just and wholly irrespective of Relief and Aid

I give bequeath and devise unto the Mayor and Corporation for the time being of the Borough of Napier to hold the same in perpetual trust the further sum of Five hundred pounds to be by them securely invested and the yearly rent and profits arising from the same are to be by them received invested and ( W. Colenso ) used as a fund for assisting poor prisoners on their discharge from the Common Gaol at Napier, in doing which in every case they shall be guided by the report from the Keeper of the said Gaol respectively respecting each discharged prisoner

I give bequeath and devise unto the Mayor and Corporation for the time being of the Borough of Napier to hold in perpetual trust the further sum





of Five hundred pounds to be by them securely invested and the rents or profits arising from the same to be by them received invested and used as a fund for assisting poor distressed seamen and strangers in want and wholly irrespective of Nationality or of Christianity of any other Belief.

I give bequeath and devise unto the Mayor and Corporation for the time being of the Borough of Napier to hold in perpetuity that the further sum of five hundred pounds to be by them securely invested and the rents or profits arising from the same to be by them received and yearly used in purchasing prizes to be distributed at the yearly examination to the successful scholars at the public Government Schools of Napier.

I give bequeath and devise to my eldest son Dudley Lehman Glencoe Esq. and his heirs executors and assigns the whole of this freehold Block (No. Glencoe) of land within the Borough of Napier on which I now at present dwell the same being contained within a very fine consisting of Suburban Section numbers 39, 40, 41, 42, 43, 44 and 45 and also Town Section number 100 with part of Town Section number 100, or so much of them as may remain unsold by me together with my dwelling house and all other outhouses and garden and trees and all other things pertaining to the said freehold: but the rents from all existing leases or lettings of any portions of the same are to be received by my three executors aforesaid during the term of one year only after my decease and to be used by them together with other moneys so borne in this my will is directed.

I direct my Executors to bear in mind that all Legacies of this my will from the lowest up to two hundred pounds inclusive are to be paid over by them to the respective legatees free of duty and that all legacies whatsoever in this my will (where not otherwise directed) shall be paid by them out of the following moneys of mine in hand, presently becoming due and accruing at the time of my decease all which I hereby give and bequeath to them my said three Executors in trust for that purpose: that is to say all moneys in the (No. Glencoe) Banks of New Zealand and in any other Banks in the Colony both at current account and as Fixed Deposits (if any) when these latter shall severally become due, all money in the Government Savings Bank all Promissory notes, and all other moneys owing to me at the time of my decease also from current Rents and Interests arising from Leases and mortgages together with the principal sums lent on mortgages: so much may become due, the same not being otherwise bequeathed devised or directed in this my will.

I give bequeath and devise to my three Executors and Trustees aforesaid their heirs and Executors to hold in trust the following real and personal properties or so many of them as I may be possessed of at the time of my decease: viz. one Suburban Section number 216 containing 9 acres situate at East Bluff at present leased to Messrs Murray, Roberts and Co. four town sections numbers 39, 41, 55, and 57 at Blackheath: twenty-one town sections, viz. numbers 39 (in part), 43, 44, 45, 46, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 64, 65, 66, 67, and 68, in the town of Abbotsoford (Napier). Several of them are at present leased, and some of them with purchasing clauses: the moiety of town Section number 47 in the township of Hawke's Bay now leased to the Reverend Robert Traor (No. Glencoe) ten town Sections in the township of Roadley viz. numbers 72, 74, 75, 76, 81, 82, 83, 84, 85 and 86, and also two parts of Suburban Section number 37 Napier: at present leased with purchasing clause to William G. Dinton: also all Rents which may be



due and accruing from any of these and properties the same being—  
bequeathed by me at the time of my decease: and also all sums of money which  
may be or may have been paid and agreed to be paid to me under any  
purchasing clause contained in those respective Deeds for any of the same,  
should and be decreed to be paid by the several Executors: and also all shares  
I may hold or possess in the Bank of New Zealand; and also all shares I  
may have in the Northern Investment Company of New Zealand at the time  
of my decease: to hold in trust: And I hereby request and direct that my  
Executors will at some early date (that is to say within three years) after my  
decease, sell and convert into money so much of the same as shall not  
consist of money: And I further direct and request that all the said—  
money arising from all such sales shall be by them used and paid as  
follows: Firstly to meet all money deficiencies (if any) arising from the total  
amount required for the several legacies of this my will: And secondly to be  
by them used (B. Colenso) and paid as I shall hereinafter or in a  
Schedule or Schedules to be attached to this my will direct: and thirdly the one  
half of the net remainder to be by them my said Executors paid to my—  
natural son William Colenso aforesaid he surviving me: and the remaining  
one half of that net remainder to be by them paid to the Mayor and Corporation  
of the Borough of Pongsona in the County of Cornwall England (the town  
of my birth and early days) provided further and in addition to this last  
named specific bequest that should my natural son William Colenso die  
before me that then his moiety as aforesaid of this net remainder shall also  
be by my Executors paid over to the said Mayor and Corporation of the  
said Borough of Pongsona to be held by them the said Mayor and Corporation  
in perpetual trust together with the sum of One thousand pounds already  
received by them from me and acknowledged by them) as "the Colenso debt"  
and to be by them annually invested for the benefit of the poorest families of  
that said Borough the yearly interests and profits arising from the same  
are to be annually shared by the said Mayor and Corporation on the first  
day of January in every year among the poorest families of that said Borough  
wholly irrespective of Relief or Credit. And as a large portion (B. Colenso)  
of moneys at present belonging to me is placed out as fixed deposits in  
our Banks, and as there has been of late a great depreciation of property  
continuing and now increasing, I direct my Executors to act early and equally  
in their paying off the several legacies bequeathed by me in this my will and  
also in any Schedules or Schedules that may be attached thereto—that is to say, that  
in case of loss of moneys and consequently there not being enough money to  
fulfil all my several bequestments in their entirety, that then in that case  
there shall be a regular lessening of so much per centum deducted from all  
legacies alike as may be requisite except in the smaller ones up to two  
hundred pounds inclusive, all which I desire my Executors to pay in full—

Lastly I bequeath all my remaining personal estate except what I  
shall otherwise bequeath by any Schedules or Schedules to this my Will also except  
any articles belonging to me which I may by any Schedule or Memorandum  
in my own hand writing or by any Paper signed by me designate as—  
intended for personal remembrance to my friends and which Schedules or  
Memorandum or Paper I direct may have the same force and effect as if it  
had formed part of this my will. unto my eldest son Felix William Colenso (William)





aforsaid, at present residing at Hoxthe Southampton England and his  
heirs and assigns And I particularly desire and request him my Belov'd  
son aforesaid to act to the utmost and that readily my three Executors in  
their faithfully carrying out this my Will

In witness whereof I the said William Colenso have to this  
my last Will and Testament contained in this and the eleven preceding  
sheets of paper set my hand this Eighteenth day of September in the year  
One thousand eight hundred and ninety-five

W. Colenso

Signed and acknowledged by the said William Colenso as and for  
his last will and Testament in the presence of us both present at the  
same time who at his request in his presence and in the presence of each  
other have hereunto subscribed our names as witnesses.

J. M. Carile

Scholar

Refuge

John Hope

Law Accountant

Refuge

This is a Codicil made by me to my last Will and Testament  
only executed on the Eighteenth day of September One thousand eight  
hundred and ninety-five

Whereas in that my said will I have (inter alia) given and  
bequeathed to my eldest son Dudley Latimer Colenso and to his heirs and  
assigns the whole of three blocks of freehold land on which I  
now dwell (for whom I had already on part provided in my said Will  
and more particularly in my also having formally purchased for him and  
for his daughter Henry his only child two freehold properties in England)  
I therefore on further consideration, but only in the event of his dying before  
me or within four months after my decease, hereby revoke that said gift and  
bequeathment of this freehold property in the Borough of Exeter to him and  
to his heirs assigns and assigns and instead thereof I hereby give and bequeath  
all this said freehold property as is in that my will fully described to my  
Executors and assigns them also named to Edward William Thomas,  
John Doctet, Jackson and Charles Rowland Edwards Esquires to be by them  
sold and disposed of for money as they may think fit and the money shall  
be paid, and I further direct and enjoin them to pay over to Henry Colenso the  
said daughter of my eldest son (he being deceased) on her attaining the age of  
twenty five years the sum of two thousand pounds and to his mother (she still  
surviving) then (William Colenso) sum of One thousand pounds as  
and as may be convenient, but should she the said mother also have deceased  
that this sum of One thousand pounds is to be added to that former men-  
tioned sum of two thousand pounds and with that to be paid to my



grand daughter Mary the same money to be taken and deducted from the money they the said Executors shall receive for the said Estate.

And concerning a small freehold property of mine situate at Trearthen within the Borough of Penzance in the County of Cornwall England (of which I have already granted a Lease to my natural son William Colenso and to his wife for the terms of their respective lives at a peppercorn rent) I hereby devise the said freehold property as follows: - first I bequeath it absolutely to my said natural son William Colenso (the present Lessee) in the event of his having any Children by his present or any future wife in trust for his Children or child as the case may be: Second and only in the event of his dying without issue him surviving then in that case I give and bequeath the said property to my nephew William Colenso (the eldest son of my late brother R. P. J. Colenso) and in the event of his dying before me then and in that case I give and bequeath the said freehold property to his brother Richard Colenso my nephew to him and to his heirs.

And with special reference to my (William Colenso) having in my said last will bequeathed to my eldest son Ridley Latham Colenso aforesaid all my remaining personal estate as is therein expressed yet in the event of his dying before me or within four months after my decease I hereby revoke and disannul my said bequest, and in so doing I bequeath the same all my remaining personal estate (with the exceptions stated in my said will and in this the Codical thereof) to my said executor and Trustee in trust to be by them disposed of as I shall hereafter and hereafter direct.

I give and bequeath to my friend James Becher Esq. in trust for the Bishop's Diocesan Library Fifty Volumes of Doctes (Theological and Ecclesiastical works) to be by him and by my son Ridley Latham Colenso or in his stead my Executors approved, selected from the Doctes in my Library, together with my complete subscribers set of the volumes of Transactions New Zealand Institute and also my M.S. Census of the Maori population of Hawkes Bay and its neighbourhood taken by me at the request of the Bishop of New Zealand in the year 1845 and following years.

I give and bequeath to my old friend Sir James Becher, Bt. C. B. Esq. &c. the sum of One hundred pounds, and also in trust for the Bishop's Museum and Library at Wellington my ancient bronze Doll with (William Colenso) Latin inscription and one copy (new) of the B. V. O. Maori New Testament (from my Library) the same having been printed and bound by me at Rarua on the Bay of Islands in the year 1837, which two articles the said Sir James Becher will kindly deposit there.

I give and bequeath to my friend Robert Bennett Esq. of Woodville the Churchwarden of the English Church there the sum of One hundred pounds the same to be expended under his directions acting in concert with the Rev. J. C. Becher the resident Minister there in the completion of the organ and parts adjacent of the said English Church in Woodville (in loving remembrance of Bishop ~~Blomfield~~) and the said sum of One hundred pounds is to be paid over to him by my Executors and Trustees within three months after my decease, Provided always that if I shall after the date of this Codicil have attended to this matter myself (long or my mind) and carried it out, that then in that case no money whatever is to be paid by my Executors and Trustees to the said Mr. Robert Bennett for that purpose.

I give and bequeath to my nephew William Colenso of Penzance aforesaid

Readers  
Reference





The sum of Three hundred pounds and also to his brother Richard Colonoe of the same town the sum of Two hundred pounds, and to their sister Carrie Colonoe the sum of One hundred pounds (William Colonoe)

I give and bequeath to my sister Ellen Colonoe of Pongance the sum of One hundred pounds, also, to my sister M<sup>rs</sup>. Mary Anne Symonds of Walsall the sum of One hundred pounds: these two bequests are to be paid over by my Executors as early as convenient after my decease to my nephews William Colonoe or to his brother Richard Colonoe (in case of his dying before me) of Pongance aforementioned to be by him paid to his two Aunts the respective legacies without delay

I give and bequeath to William Blacklock of 8 Cornhill Arcade in Amsteland the sum of One hundred pounds of which some Fifty pounds is to be held in trust by him for his son Bernard Colonoe Blacklock until he attains the age of twenty-one years

I give and bequeath to my Bohemian friend Felice Rauter, Chemist of Embrook Victoria the sum of One hundred pounds, of which some Fifty pounds is to be by him held in trust for his son William Colonoe Rauter until he attains the age of twenty-one years

I give and bequeath to my friend the Reverend William Webb, Archdeacon of St. Andrews Glasgow, the sum of One hundred pounds

I give and bequeath to Albert Norris of Glasgow the sum of Fifty pounds to help him in his living and travels pursuits in Entomological Science (William Colonoe)

I give and bequeath to my young friend Franteline Loggins Clark of Glasgow the sum of Fifty pounds

I give and bequeath to my friends Henry Hall Inspector of Schools William Isaac Spooner Surgeon, and J<sup>o</sup>. Arthur Selinger, all of Glasgow, in trust for the Rauterian Society Philosophical Institute here in Naples the sum of Two hundred pounds for the common benefit of the Library and Museum of the said Society, and also to them in trust for the said Society all my dried plants in bundles and in boxes (roughly put up as they now are) all my Geological and other Natural History specimens: my large framed and glazed portrait of my friend Sir J<sup>o</sup>. Hooker my framed and glazed portrait of my earliest Bohemian friend Allan Cunningham a large coloured photograph of myself (by Carnall) this last to be framed and glazed by my Executors at my expense (if not already done so by me) before I have died and my framed and glazed drawing of my ancient Cornish Bell Provided always that if the said Society shall have ceased to exist or shall have fallen in the estimation of those my appointed Legacies in trust into a state of minority, that then in such case this done shall wholly fail and be of no effect as if it were never made. (William Colonoe)

Moreover as I have in my will aforesaid and at page 4 thereof, bequeathed and given to my son Ridley Latimer Colonoe the sum of One thousand pounds. I hereby revoke and annul that said bequeathment, and instead thereof do give and bequeath to him the sum of Five hundred pounds.

And further, on pages 4 and 5 of my said will I have also given and bequeathed to my natural son William Colonoe now of Pongance in England the sum of two thousand pounds I hereby revoke and annul that said bequeathment and instead thereof (he surviving me) I give and bequeath to him the sum of five hundred pounds.





And as I have in pages 8 and 9 of my said Will given and bequeathed to the Mayor and Corporation of the Borough of Hastings the sum of Five hundred pounds to be by them invested as therein stated for assisting poor prisoners in their discharge from the Common Gaol in Hastings. I now declare as my wish and desire in addition to what has already been written therein in my said Will respecting the same, that all prisoners on being so discharged shall be alike relieved and aided on their leaving the said gaol whether such information or information may have been committed to gaol as vagrants or for any short period or term of imprisonment.

And as I have also on pages 9 and 10 (William Colenso) of my said will devised and bequeathed certain remainder monies in part as follows - "thirdly the one half of the net remainder to be by them the said Executors paid to my natural son William Colenso" that bequeathment I hereby revoke and annul, and instead thereof I hereby ~~revoke~~ and ~~annul~~ give and bequeath the said annuity (if any) in trust to the Mayor and Corporation of the Borough of Bournemouth, Cornwall England, together with the the first moiety thereof as therein stated and set forth to be by them used as in my said will is further directed, the same sum or sums to be paid to them by my Executors as is also in my will directed.

I give and bequeath to my friend R. C. Harding of Wellington printer all my printing materials including a small Albion printing press complete type new and old, printers cases, colored inks &c &c and also my sole composing stick - with which I did so much write both in England and in New Zealand.

I give and bequeath to the Government of the Colony of New Zealand all my No. 5 & 6 of the Maori-English Lexicon on which I was formerly occupied for them together with all Maori letters and other No. 5 & 6 pertaining to the same (a large quantity) excepting however all official correspondence with the Government respecting the said work: Provided - Always that they (William Colenso) first pay to my Executors the sum of Three hundred pounds long owing to me for work done for the Government and outlays made by me in connection with the same, as stated by me in my letters to the Government of June 30th and August 16th 1886.

Moreover, and in confirmation of my special bequeathment written on page 6 of this Will should that not be carried out (through the said Rowland Bay Philosophical Institute having become defunct or fallen into a state of insolvency) then in that case my desire and wish is that my three friends herein named shall as early as may be convenient to them get all my dry specimens of plants in their present rough state of packages lots bundles and boxes well and truly securely packed in cases lined with tin and send them to the Director of the Royal Botanical Gardens New London, all necessary expenses arising therefrom together with that of freight to London to be paid by my Executors and Trustees to this my will and Will.

In witness whereof I the said William Colenso the Testator have to this Will (to my last will and Testament already mentioned) contained in five sheets of paper and numbering nine written pages at my hand this thirteenth day of November in the year one thousand (William Colenso) eight hundred and ninety-two.

William Colenso





Signed and acknowledged by the said William Blom the  
Testator, as and for a Deed to his last will and Testament in the  
presence of us present at the same time and who in his presence and at  
his request and in the presence of each other have subscribed our names  
as witnesses.

Geo. Thos. Lamm  
Secretary Education Board  
Napier

T. H. Brown  
Porter & Stationer  
Napier



*Township of Abbotsford*

CHURCH RESERVE

KENILWORTH

STREET

STREET

WAVERLEY

NOATANIWA

Town of Marchwood

*Thursdays of Clive*

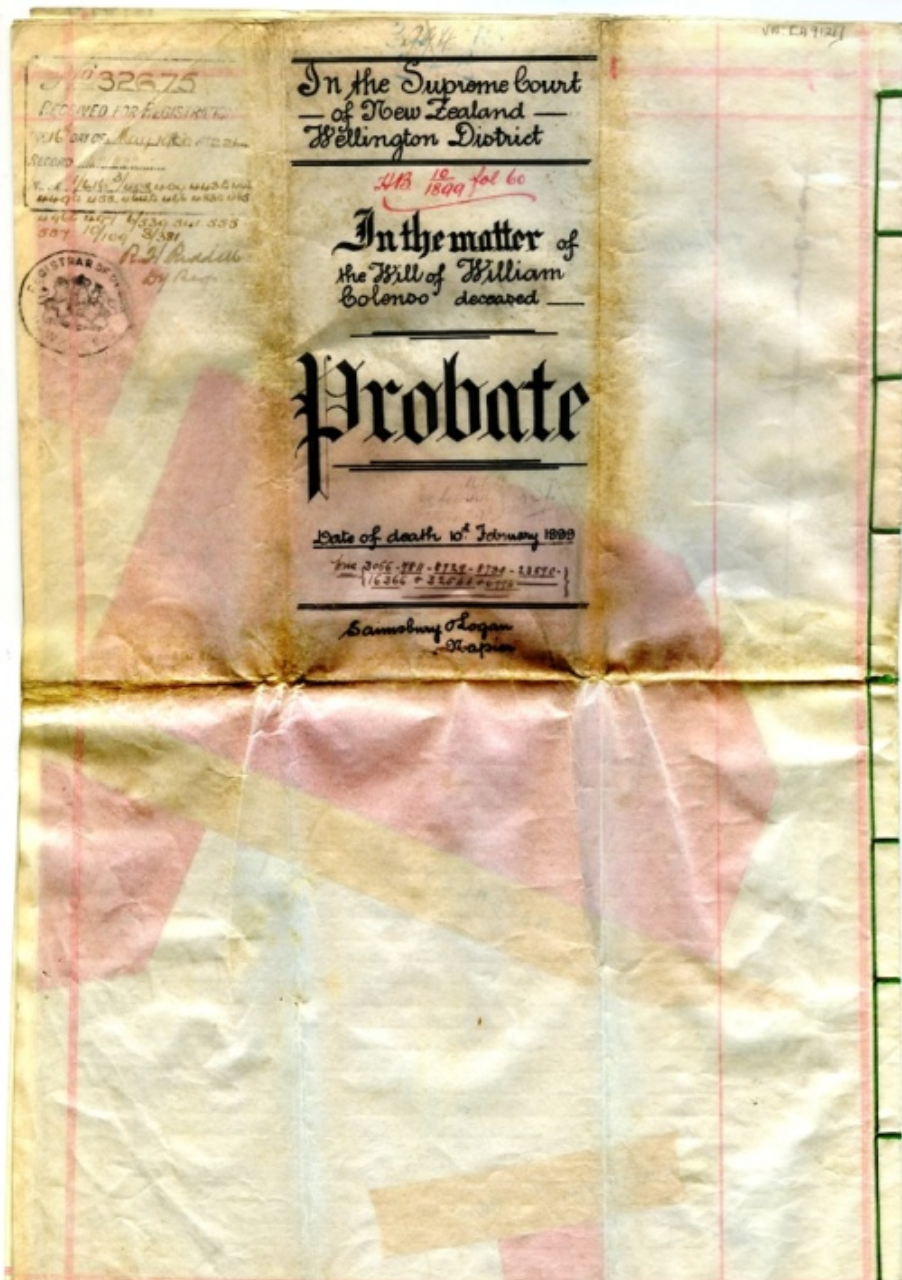
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Town of Napier  
Pn 6900

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THE WAVELET  $S^r$

Great New



Colenso is a free email Newsletter published irregularly by the Colenso Society. The editor invites contributions on any matter relating to the life and work of the Rev. William Colenso FLS FRs.

Such contributions should be emailed to [ian.stgeorge@rnzcgp.org.nz](mailto:ian.stgeorge@rnzcgp.org.nz). The cover of this supplement is based on the cover of the catalogue for the 1900 Paris Exhibition.